APPENDIX A

Filed April 5, 1961- B. J. Boyd, *Clerk Supreme Court*

Opinion of the Supreme Court of Tennessee

State of Tennessee, *ex rel.*, A. F. Sloan, District Attorney General

v.

Highlander Folk School

Grundy Law

Hon. Chester C. Chattin, Judge

Attorneys for Appellants	Attorney for Appellee
General A. F. Sloan	Cecil D. Branstetter
A. A. Kelly	George E. Barrett
South Pittsburg, Tennessee	Nashville, Tennessee

Opinion

This suit was commenced by the State through General Sloan, District Attorney General, seeking to have the charter of defendant revoked and the corporation dissolved. At a hearing as to the proposition that the school was operated for the personal and private gain of the operator, Horton, the issue was submitted to a jury and that body answered the issue in the affirmative.

There were two hearings on this matter, one in September 1959, relative to the nuisance aspect of the petition and another one in November 3, 1959, and it was there that the Constitutional question of operating an integrated school was considered and passed upon by the trial judge.

It might be said here that the trial judge was of the opinion that the cases of *Brown* v. *Board of Education*, 347 U.S. 483 (1954) and *Roy* v. *Brittain*, 201 Tenn. 140, (1956) had no application here because the school in question in this record is a private and not a public school.

At this hearing the Court agreed with the findings of the jury that this school was operated for the personal and private gain of Myles Horton, and that large quantities

of beer were possessed and sold promiscuously to the students as well as the teachers, many of the students being minors, and these many sales of beer were all made without a license.

It is also in evidence that large stacks of beer cans, whiskey jugs and bottles were found about the school. Many exhibits appearing in the record show revolting and inexcusable conduct carried on at this school.

At many of their entertainments beer was sold without a license, and in many cases to minors. It must be borne in mind that the selling of beer without a license in Tennessee is against our criminal law and it is especially exacting as to the sale of beer to minors.

The above were the holdings of the trial judge on this quo warranto proceedings as to the nuisance feature of the case.

On the 20th day of October, 1934, Highlander Folk School was granted a general welfare charter of incorporation by the State of Tennessee, under the provisions of T.C.A. 48-1101 et seq. The particular purposes for which it was incorporated were declared in its charter Technical Record Vol. 1, page 13, to be:

> "The particular purposes for which this charter is sought are the support of the Highlander Folk School, adult workers education, the training of rural industrial leaders, and general academic education."
>
> And
>
> "The general welfare of society, not individual profit, is the object for which this charter is granted, and hence the members are not stockholders in the legal sense of the term, and no dividends, or profits shall be divided among the members. The members may at any time voluntarily dissolve the corporation by a conveyance of its assets and profits to any other corporation holding a charter from the State for the purposes not of individual profit. T.C.A. 48-1110"

And

"The means, assets, income or other property of the corporation shall not be employed, directly or indirectly, for any other purpose whatever than to accomplish the legitimate object of its creation, and by no implication shall it possess the power to issue notes, or currency, deal in currency, notes, or coin, or sell products, or engage in any kind of trading operation, or hold any more real estate than is necessary for legitimate purposes." T.C.A. 48-1109.

The Charter also provides:

"A violation of any of the provisions shall subject the corporation to dissolution at the instance of the State."

T.C.A. 48-1109 also provides the following limitations and restrictions:

"The means, assets, income or other property of the corporation shall not be employed, directly, or indirectly, for any other purpose whatever than to accomplish the legitimate objects of its creation, and by no implication shall it engage in any kind of trading operation, or hold any more real estate than is necessary for its legitimate purposes."

In *State ex rel* v. *Junior College*, 166 Tenn. 535, only an injunction was there sought, yet the Court went at length to construe the quo warranto statute with reference to its proper application and said:

"We think a suit like the one before us may be brought either to enjoin a corporation from the doing of a particular thing, or to procure the forfeiture of the corporation's charter, as the circumstances of the case requires."

See *State* v. *Kansas City College of Medicine* (Mo. S. Ct.) 46 A.L.R. 1472.

Summarizing the evidence in the Missouri case the Court finally stated its conclusions as follows:

> "The evidence summarized above justifies the conclusion that Dr. Alexander conducted the school solely for his own private gain."

The proof here shows, as found by the trial jury and the trial court, that the school was operated for the private gain of Myles Horton.

The trial court as to the first question involved that is, did Myles Horton operate the school for his own personal gain, had this to say:

> "As to the first question this court is satisfied with the verdict of the jury. The preponderance of the proof is to the effect that Myles Horton was conveyed some 70 acres of land with valuable improvements upon it by the defendant, Highlander Folk School. That he handled all the money in the school, that although Miss May Justus was the secretary and treasurer of the school, she did not write checks, or handle the money, or any of the finances of the school. The President, Myles Horton handled the finances of the defendant. He wrote all the checks; or designated some one when he was away to write the checks. He reared a family on defendant's property and all the expenses of taking care of himself and family and household servants, throughout some 25 years were paid out of defendant's funds."

Horton testified that during the first years of the school he put everything into the building of the school with the idea of getting it out of the school at some later date.

Horton testified that for the past few years he had been drawing a salary of some $9,000.00 annually. However, he was unable to produce any record of the directors or executive committee having fixed his salary. The inference is that he fixes his own salary.

There isn't any proof that the governing officers of defendant, school, have ever protested any of the acts of Horton in this illegal operation of the school.

The charter of defendant provides:

> "The general welfare of society, not individual profit, is the object for which the charter is granted, and the members are not stockholders, in the legal sense of the term and no dividends, or profits, shall be divided among them. . . ."

This statute does not authorize a corporation to convey its property to one of its officers on the pretense it is conveying it to him for a back salary. Defendant had no right to let Horton live upon this property for 25 years without paying taxes, then give it to him.

The charter of the defendant further provides:

> "A violation of any of the provisions of this charter shall subject the corporation to dissolution at the insistence of the State."

See *State ex rel.* v. *Family Loan Co.*, 167 Tenn. 654; 13 Am. Jur. Sec. 1318, p. 1176.

The operation of this school for the personal gain of Horton was a misuse and abuse of its powers, and perversive of the objects for which it was created and injurious to the public. It is needless to say that under the scheme of operation as used by Horton, he evaded the payment of taxes.

It should be borne in mind that this issue was submitted to the jury, that is, whether Horton operated this school for his personal gain, and this finding was in all respects approved by the trial court.

In these two findings by the jury and the court, we fully concur.

This brings us to a consideration of the second proposition and that is the sale of beer by the defendant on its premises without a permit and license, was a wilful and intentional act and in direct violation of the express provisions of its charter in that it could not engage in any

trading operations, and it was a violation of the criminal laws of the State as well as the nuisance statute.

We refer to the testimony of Mrs. Hazel May Thomas, R. Vol. 2, page 523 as follows:

"Q. Now, I will ask you, Mrs. Thomas while on these occasions and on the premises whether or not, you have seen intoxicating beverages?

A. Yes, sir.

Q. Where did you see them?

A. In a place where they sold beer and candy and stuff—cold drinks, P.X. like.

Q. Did they have what they call a P.X.?

A. Yes, sir.

Q. What building was that in?

A. It was in the old school building.

Q. You say they sold beer there?

A. Yes, sir.

Q. Do you know how much they sold it for?

A. No, sir.

Q. Did you or anybody buy any?

A. Yes, sir.

Q. Do you know how much it cost?

A. No sir, I don't.

Q. Did you see any whiskey?

A. Yes, sir.

Q. Where did you see it?

A. At the Highlander Folk School and Myles Horton's house.

Q. How much did you see at the school building?

A. It would be in gallon jugs and quart bottle—,

Q. Gallon jugs and quart bottles?

A. Yes, sir."

On this point we now call attention to the testimony of Mrs. Dosie Church, R. Vol. II, page 546, who testified that she was employed at this School for a number of years.

"Q. Did you see any alcoholic beverages stored there in the building property?

A. Yes, sir, I have.

Q. Have you seen much?

A. Well, what do you call much?

Q. Well, you describe what you saw, Mrs. Church?

A. Well, I have saw it in bottles on the shelf. I don't know whether you call it storing it or not, but just on a shelf, and I have saw the bottles when they would be empty in the garbage cans. I have carried them out a number of times.

Q. Have you seen any jugs there?

A. I went in one morning and the table was full of gallon jugs of whiskey.

Q. Now, Mrs. Church, if you know, what else have you seen them sell there besides beer and whiskey?

A. Well, I have saw them sell chewing gum and candy razor blades they would have there in the P.X."

The record is replete with testimony of the unlawful sale of beer and whiskey at this school.

It might be well to state here the fact that many well meaning people had made contributions to this school accounts at least in part for its continued operation, but the record fails to show that the school had any plan, or standard for teaching and studies and it seems that it was operated more as a vocation work shop than as an ordinary school. The work was carried out according to the day by day, or week by week ideas of Mr. Horton.

We have considered all the assignments of error, find them without merit and they are accordingly overruled. The case will be remanded to the Circuit Court of Grundy County for the appointment of a Receiver.

It might be observed here that we base our decision on the two propositions before the Court, that is the operation of this School for the personal benefit of Myles Horton, and that in such operation he repeatedly violated the criminal laws of this State in the sale of whiskey and beer in and about this school, and that this being so, it is unnecessary for us to pass upon the constitutional question as to the mixing of white and colored, male and female, in the same school.

PREWITT, C.J.

Justices Tomlinson, Burnett Swepston and Felts concur.

(From the Supreme Court Minutes, Book 45, Page 62)

STATE OF TENNESSEE EX REL A. F. SLOAN,
District Attorney General

v.

HIGHLANDER FOLK SCHOOL

GRUNDY LAW

AFFIRMED

This cause coming on to be heard upon a transcript of the record from the Circuit Court of Grundy County, assignments of error, reply brief and argument of counsel, upon consideration whereof the Court is of opinion that in the judgment of the Court below there is no error.

It is therefore ordered and adjudged by the Court that the judgment of the Court below be in all things affirmed and that the cause be remanded to the Circuit Court of Grundy County for the appointment of a Receiver and such further proceedings as may be necessary in the execution and enforcement of the judgment of that Court; and for the collection of the cost of the Court below; for all of which let procedendo issue.

The cost of the appeal will be paid by the Highlander Folk School, principal; and the Summit Fidelity & Surety Company, surety; for which let execution issue. 4/5/61

(Filed May 5, 1961)

Opinion and Judgment of the Supreme Court of Tennessee on Petitions for Rehearing

STATE OF TENNESSEE EX REL A. F. SLOAN,
District Attorney General

v.

HIGHLANDER FOLK SCHOOL

GRUNDY LAW

Hon. Chester C. Chattin, Judge

ATTORNEYS FOR APPELLANTS	ATTORNEYS FOR APPELLEE
GENERAL A. F. SLOAN	CECIL D. BRANSTETTER
A. A. KELLY	GEORGE E. BARRETT
South Pittsburg, Tennessee	Nashville, Tennessee

ON PETITION TO REHEAR

The State through the District Attorney General as relator below has filed a petition to rehear, complaining that this Court failed to order the properties of the defendant below escheated to the State.

This Court ordered this cause be remanded to the Circuit Court of Grundy County for the appointment of a receiver for the liquidation of the defendant, corporation, consistent with the opinion.

Highlander Folk School, etc., has also filed its petition to rehear, but upon examination of this petition it appears that the case is just being reargued as to the facts and the law heretofore set out in our opinion under date of April 5, 1961. We discussed the material facts in our opinion and the petition presents no new facts, or arguments to change our view in our said opinion.

It results that both petitions to rehear are denied.

PREWITT
Prewitt, C. J.

(From the Supreme Court Minutes, Book 45, Page 72)

STATE EX REL, SLOAN DISTRICT ATTORNEY GENERAL

v.

HIGHLANDER FOLK SCHOOL

Grundy Law

Petitions to Rehear Denied

This cause coming on further to be heard on two petitions to rehear and reply thereto, upon consideration of all of which and the Court finding no merit in the petitions they are denied at the cost of Highlander Folk School principal; Summit Fidelity and Surety Company, surety; for which let execution issue. 5 5 61.

Opinion of the Circuit Court of Grundy County

No. 90

STATE OF TENNESSEE EX REL A. F. SLOAN,
District Attorney General

v.

HIGHLANDER FOLK SCHOOL

This suit was instituted by the State through its District Attorney General seeking ultimately to have the charter of defendant revoked and the Corporation dissolved.

The petition charges that the defendant was engaging and maintaining a place where certain transactions were permitted to be carried on constituting a nuisance under the State's nuisance act. The petition also charged that defendant was in violation of the State's quo warranto statutes. The petition prayed that the nuisance be abated and that the Charter of the corporation be revoked.

The defendant, Highlander Folk School, filed a demurrer coupled with an answer.

The grounds of the demurrer were: (1) the suit was multifarious; (2) there was a misjoinder of causes of action; (3) the suit was unknown to the forms of Chancery; and (4) proper and necessary parties are not before the Court.

The answer stated in substance that the school had been operated in a conformity with its charter; that it was not being operated as a public nuisance; that the charges in the petition were not sufficient to authorize a revocation of its charter.

There have been two hearings on this matter, one in September, 1959, relative to the nuisance aspect of the petition.

At the beginning of that hearing it was agreed by the attorneys for both parties that the demurrer be pretermitted until the final hearing.

The Court found that the defendant had been engaging in the sale of beer in its main or administrative building and ordered this building padlocked.

At the insistence of defendant the Court set the final hearing of this matter for November 3, 1959, the same being the second day of the regular term in November of the Circuit Court for Grundy County.

On that date the relator moved to amend his petition by striking from the petition all prayers for injunctive relief; which amounted to nothing more than electing to proceed under the quo warranto statute seeking a revocation of the charter. The Court granted the motion to amend and overruled defendant's demurrer.

Defendant insists that the Court erred in allowing the amendment for the reason it in effect permitted relator to voluntarily dismiss the nuisance aspect of the petition. This position is not sound for the reason the nuisance aspect had been heard in September and the defendant insisted that the findings of the Court at that time were conclusive and agreed as well as insisted that the evidence adduced upon that hearing be filed and treated as evidence upon the final hearing. The dismissal of the nuisance aspect was, of course, in favor of defendant and not to its detriment. Furthermore, the Court is of the opinion that T. C. A. 23-307 applies before any hearing has been had on a nuisance petition.

Defendant insists the Court erred in overruling its demurrer especially on the grounds of misjoinder of actions and multifariousness.

Title 21. Section 607 provides: "The uniting in one bill of several matters of equity, distinct and unconnected, against one defendant, is not multifarious".

Both the nuisance and quo warranto statutes provide that both proceedings shall be tried according to the forms of Chancery.

The amendment allowing relator to strike from his bill all prayers for injunctive relief and electing to proceed on the quo warranto aspect of the case alone cured any objection as to misjoinder of actions.

Further defendant school insists the Court was in error in submitting the issue of whether or not the school was being operated for the personal gain of its President, Myles Horton. Defendant insists that this issue involved a complicated accounting and that it was a mixed question of law and fact.

The Court must respectfully disagree with defendant. It is true that there was proof as to the value of the real estate conveyed to Horton by defendant in 1957. But whether the value of it was $35,000.00 as contended by relator or $12,000.00 as contended by defendant is immaterial since whatever its real value may have been enriched Horton to that extent.

It is likewise true that relator introduced an accountant as to the financial condition of the school. The accountant testified the school was in good financial condition. There were no accounts to be settled between relator and defendant. Nor were there any accounts to be settled between defendant school and its President, Myles Horton. He did not claim a back salary. The executive counsel voted to give him the real estate on the pretext he was due a back salary.

There is no proof in this record that defendant school was ever, throughout its existence, insolvent or unable to pay its officers a reasonable salary.

Title 23-2815 Tennessee Code Annotated provides: "Such issues of fact as may become necessary to try by jury in the progress of the cause, shall be made up under the direction of the Court, and submitted to a jury impaneled forthwith".

The final hearing of this cause was before a jury of eleven men and one lady of Grundy County.

One issue of fact was submitted to the jury, to-wit: "Has Highlander Folk School been operated for the personal gain of Myles Horton?"

(The question of the sale of beer was a settled issue, or, in other words, the defendant's attorney stated in open

Court that the findings of the Court in the September hearing were conclusive.)

(The question of integration at defendant's school was admitted by defendant but insisted that the segregation laws of this state had been held unconstitutional by the Supreme Court of the United States.)

The jury answered the question submitted to them by the Court in the affirmative.

The questions to be decided by the Court are: Does the fact that defendant school having permitted Myles Horton to operate same for his own personal gain work a forfeiture of defendant's charter?

Does the sale of beer and other commodities without a license by the defendant authorize a forfeiture and revocation of its charter?

Does the practice of integration at defendant's institution authorize a forfeiture and revocation of its charter?

As to the first question, this Court is satisfied with the verdict of the jury. The preponderance of the proof is to the effect that Myles Horton was conveyed some seventy acres of land with valuable improvements upon it by the defendant, Highlander Folk School. That he handled all the money of the school. That although Miss May Justus was the Secretary and Treasurer of the school she did not write checks or handle the money or any of the finances of the school. The President, Myles Horton, handled the finances of the defendant. He wrote all the checks or designated someone when he was away to write the checks. He used the defendant's money to pay his household servants. He reared a family on defendant's property and all the expenses of taking care of himself and family throughout some 25 years were paid out of defendant's funds. He paid for the building of an outbuilding on the property conveyed to him by defendant out of defendant's funds. Horton testified that during the first years of the school he put everything into the building of the school with the idea of getting it out of the school at some later date.

Horton testified that for the past few years he has been drawing a salary of some $9,000.00 annually. However, he was unable to produce any record of the directors or executive counsel having fixed his salary. The inference is that he fixes his own salary.

There isn't any proof that the governing officers of defendant school have ever protested any of the Acts of Horton in the illegal operation of the school.

The Charter of defendant provides: "The general welfare of society, not individual profit, is the object for which this charter is granted, and the members are not stockholder; in the legal sense of the term; and no dividends or profits shall be divided among them".

Tennessee Code Annotated 48-1106 provides: "Any corporation chartered under the laws of Tennessee for religious, charitable, educational, missionary, or other eleemosynary purposes, and not for profit shall have the power to receive property, real, personal or mixed, by purchase, gift, devise, or bequest, sell the same and apply the proceeds toward the promotion of the objects for which it is created, or hold any such property and apply the income and profits toward such objects."

This statute does not authorize a corporation to convey its property to one of its officers on the pretext that it is conveying it to him for a back salary. Defendant had no right to let Horton live upon this property for 25 years without paying taxes, then give it to him.

The Charter of defendant further provides: "A violation of any of the provisions of this Charter shall subject the corporation to dissolution at the insistence of the State."

The Court finds no case in Tennessee dealing with such a provision in a Charter. However, in the case of State ex rel v. Family Loan Co., 167 Tenn. 654, it is held that "Corporations accept their franchises upon the implied condition that they will legally use them". And further, "The defendant can only be ousted of its franchise for misuse or abuse of powers which involve its right of

existence, for acts that produce or tend to produce injury to the public, for acts perversive of the objects for which it was created and which injuriously affect the public welfare—a purpose which corporations are supposed to promote."

"If a corporation violates some general statute or rule of the common law which applies alike to individuals and to corporations, the state may forfeit its charter and adjudge its dissolution equally as well as in the case where *it fails to obey the express or implied conditions of its Charter* or the provisions of some statute directed against it imposed for the benefit of the public." 13 Am. Jur. Section 1318, page 1176.

"The breach or nonperformance of requirements expressly imposed upon a corporation may constitute a ground for forfeiture of its Charter. This is clearly the result where the act or omission is expressly made a ground for forfeiture; and even if not, it is sufficient that the requirements were expressly imposed for the benefit of the public". 13 Am. Jr. Section 1314, page 1175.

The operation of this school for the personal gain of Horton was a misuse and abuse of its powers and perversive of the objects for which it was created and injurious to the public. It is needless to say that under the scheme of operation as used by Horton he evaded the payment of taxes.

The sale of beer by defendant on its premises without a permit and license was a willful and intentional act and in direct violation of the express provision of its charter in that it could not engage in any trading operations. It was a violation of the criminal laws of the state as well as the nuisance statutes.

Title 49, Section 3701 of the Tennessee Code Annotated provides:

"It shall be unlawful for any school, academy, college or other place of learning to allow whites and colored persons to attend the same school, academy, college or other place of learning."

Defendant admits that it practices integration and that it is a private institution. That it is an adult educational institution was proven by a preponderance of the evidence at the trial.

The defendant insists that the Supreme Court of the United States in the case of Brown v. The Board of Education, 347 U.S. 483 held that the foregoing statute was held unconstitutional. Defendant further insists that the Fourteenth Amendment to the Constitution of the United States forbids state action based on race.

The Supreme Court held as follows in the Brown case: "We conclude that in the field of public education the doctrine of 'separate but equal' has no place".

The relator insists that this holding does not render the statute unconstitutional as to private schools.

"Statutes may be unconstitutional and void as to their application to a part of their subject matter and valid as to other parts, or, to state the problem more concretely, they may be constitutional in operation with respect to some persons and states of fact and unconstitutional as to others". 11 Am. Jur. Section 163, page 857.

"A law may be unconstitutional as far as it affects natural persons, and yet as to corporations it may be valid". 11 Am. Jur. Section 163, page 858.

In the case of Roy Goward College Trusteeship 391 PA. 434, it was held that a school created by will of a testator and to be operated for white males only are entitled to the protection of the law, and to enforce the same is not discriminatory state action.

"It is equally well settled that the liberty guaranteed under this amendment against deprivation without due process of law is a liberty of natural, and not artificial persons". 11 Am. Jur. Section 329, page 1134.

"Corporation is an artificial being, invisible, intangible and existing only in contemplation of law." 21 Tenn. App. 463.

This Court is of the opinion that the segregation laws of the State as applied to private schools are constitutional and valid.

The Court is of the further opinion that in view of the findings of the jury to the effect that Myles Horton, the President of the defendant corporation, has been operating the school for his own personal gain is such a misuse of defendant's charter as works a forfeiture of same.

The Court is of the further opinion that the defendant having violated the criminal laws of the state in that it has permitted the sale of beer to be carried on upon its property without a permit or license and permitting integration in its school works a forfeiture of its charter, the defendant having accepted its Charter with the condition that "a violation of any of the provisions of this charter shall subject the corporation into dissolution at the insistence of the State".

The Court further finds that the deed to Horton from defendant is void for the reason the charter provides that no profits may be divided among its members.

Relator insists that upon revocation of defendant's charter that the property escheats to the State. However, the Court is of the opinion Title 23, Section 2818, Tennessee Code Annotated, applies. Therefore, a receiver will be appointed by the Court to wind up defendant's affairs.

Defendant may have 30 days from entry of order to file a motion for a new trial.

CHESTER C. CHATTIN
Judge

APPENDIX B

Committees Report on Integration

The following report was approved unanimously by the Board of Trustees:

To the President and Board of Trustees at Bethel College at McKenzie, Tennessee.

REPORT

Your committee would most respectfully report to the Board of Trustees as follows:

I

We, the members of the special committee appointed by you in response to the direction issued by the last General Assembly to make a study of the challenge to offer courses of instruction to the Cumberland Presbyterian Church of the United States and Liberia report that we have met and preferably and carefully considered our assignment. We find that the full Board of Trustees are fully aware and sympathetic toward the educational needs of the above mentioned church. We have studied this problem at length, discussed at length the advisability of integration in West Tennessee, and further the feasibility of integration in a western Tennessee town that cannot and will not house, feed or does not have the church or other facilities for Negro students. During the discussion, the question of legality of integration of the school was introduced. This question had never been decided under Tennesee Law.

The college is operating under a general welfare charter from the State of Tennessee as a non-profit corporation. The question of legality of integration in private schools was pending at the time of this meeting before the Honorable Chester C. Chattin, Circuit Judge of the Eighteenth Judicial Circuit in the County of Grundy, State of Tennessee in the cause of: *State of Tennessee ex rel A. F. Sloan, District Attorney General* vs. *Highlander Folk School No. 90.*

In view of this pending decision at the time of this meeting your committee was of the opinion that some question insofar as the legality of integration could possibly be raised by Public Officials including the Attorney General of Carrol County, in which Bethel College is situated. In view of this question your committee felt that integration at this time should not be attempted.

II

The Honorable Chester C. Chattin, Circuit Judge, ruled on this matter on February 16, 1960. In that ruling he interpreted TCA Section 49-3701 which provides as follows: "It shall be unlawful for any school, academy, college, or other place of learning to allow whites and colored persons to attend the same school, academy, college or other place of learning."

Judge Chattin held in the decision that the defendant, Highlander Folk School, was in violation of this Tennessee Code section and further that this was sufficient violation to revoke the charter of Highlander Folk School. Judge Chattin further held in his opinion that the famous case of *Brown* vs. *The Board of Education* No. 47 U.S. 483 struck down only prohibition toward integration of tax supported schools and did not affect private schools. The opinion of Judge Chattin is attached to this report as Exhibit Number One.

III

In view of the lack of facilities for Negro students in the City of McKenzie, and further in view of the opposition to any form of integration in Western Tennessee, wherein said college is situated, and in view of the support that the school has received from the City of McKenzie, Carrol County and other sources, and in view of the fact that a major portion of the enrollment of said school comes from the area around Carrol County in West Tennessee, the committee recommends that no integration be attempted at this time.

Your committee is further of the opinion that if an attempt to integrate was made by the school administration, that some legal action could and possibly would be taken by the Attorney General's Office who has the jurisdiction for the county in which Bethel is situated, and that since the decision of Judge Chattin, holding the State Law valid, which is in full force and effect until reversed by a high court, the Board of Trustees would be violating Tennessee Law, specifically TCA Section 49-3701 if they attempted to integrate the school, and subject the school to the possibility of having its charter revoked. In view of paragraph eighty-eight of the Confession of Faith, we have no choice but to comply with the law.

We recommend that the Board of Trustees request of the General Assembly that it be permitted to contact and communicate with the Cumberland Presbyterian Church of the United States and Liberia and determine what educational assistance is needed and report back a form of lawful action to be taken to assist in the afore-said church's educational program.

We further recommend that a full copy of the report and exhibit be included in our report to the next General Assembly, showing the study and recommendations of this committee, and that this report be adopted as the report of the Board of Trustees to the General Assembly.

(The General Assembly voted that the "Exhibit" referred to above not be printed as a part of the Permanent Minutes.)—S.C.